

**IN THE COURT OF APPEALS  
FIRST APPELLATE DISTRICT OF OHIO  
HAMILTON COUNTY, OHIO**

|                      |   |                        |
|----------------------|---|------------------------|
| NANCY AYERS,         | : | APPEAL NO. C-070607    |
|                      | : | TRIAL NO. DR0402042    |
| Plaintiff-Appellee,  | : |                        |
|                      | : | <i>JUDGMENT ENTRY.</i> |
| vs.                  | : |                        |
| DEVIN C. DRAMBAREAN, | : |                        |
| Defendant-Appellant. | : |                        |

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.<sup>1</sup>

Defendant-appellant Devin Drambarean appeals from the trial court's decision sustaining plaintiff-appellee Nancy Ayers's objections to a magistrate's decision finding her to be in contempt. Drambarean and Ayers were married and later divorced. The parties through a shared-parenting agreement resolved that neither Drambarean nor Ayers could unilaterally fire their nanny. On Drambarean's contempt motion, hearings were held, and the magistrate found that Ayers was in contempt because she had violated the agreement by firing the nanny. Ayers's objections to the magistrate's decision were later sustained by the trial court; the record, however, was incomplete on the issues relating to the magistrate's findings of contempt.

Ayers filed a partial transcript of the magistrate's proceedings, but the transcript was silent on whether Ayers had been found in contempt and had later purged the contempt; the evidence presented to the magistrate to support the contempt finding and

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<sup>1</sup> See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

the hearing on whether the contempt had been purged were not included in the transcript filed in the common pleas court.

The trial court nonetheless sustained Ayers's objections on an incomplete record. But the record made it impossible to ascertain exactly what had happened in front of the magistrate: part of the hearing had not been recorded, and the parties could not recollect exactly what issues had already been resolved. The record was deficient and it was an abuse of discretion to sustain Ayers's objections to the magistrate's decision on an incomplete record. Objections to findings of fact must be supported by a transcript of all relevant evidence submitted to the magistrate.

We note that a magistrate's decision is not effective unless adopted by the court.<sup>2</sup> The magistrate's decision here was not adopted by the court. On remand the trial court may develop the record by rehearing the previously referred matter, taking additional evidence, or returning the case to the magistrate;<sup>3</sup> it may not blindly sustain objections to a magistrate's decision.

Because the record was insufficient to sustain Ayers's objections, we reverse the trial court's judgment and remand the case for further proceedings.

A certified copy of this judgment entry is the mandate, which shall be sent to the trial court under App. R. 27. Costs shall be taxed under App.R. 24.

**SUNDERMANN, P.J., PAINTER and HENDON, JJ.**

*To the Clerk:*

Enter upon the court's journal on July 2, 2008  
by order of the court \_\_\_\_\_.  
Presiding Judge

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<sup>2</sup> Civ.R. 53(D)(4)(a).

<sup>3</sup> Civ.R. 53(D)(4)(b).